

AMENDED IN ASSEMBLY AUGUST 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Concurrent Resolution

No. 19

Introduced by Assembly Member Pan

(Coauthors: Assembly Members Achadjian, Alejo, Allen, Ammiano, Atkins, Bigelow, Bloom, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dahle, Dickinson, Donnelly, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gorell, Gray, Grove, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Mansoor, Medina, Melendez, Mitchell, Morrell, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Patterson, John A. Pérez, Quirk, Rendon, Salas, Skinner, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, and Yamada)

February 19, 2013

Assembly Concurrent Resolution No. 19—Relative to Japanese American state employees.

LEGISLATIVE COUNSEL'S DIGEST

ACR 19, as amended, Pan. Japanese American: discrimination: apology.

This measure would acknowledge that the State of California made a grievous mistake that injured loyal employees who were dedicated to serving the people of California when it dismissed over 300 Americans of Japanese ancestry as a result of Senate Concurrent Resolution 15 (SCR 15) of 1942 by Senator John Swan. This measure would resolve to issue a public apology to the state civil service employees who were dismissed.

Fiscal committee: no.

1 WHEREAS, In early 1942, over 300 Americans of Japanese
2 ancestry, all of whom met the state civil service requirement of
3 American citizenship, were employed by the State of California;
4 and

5 WHEREAS, On January 19, 1942, the California State
6 Legislature adopted Senate Concurrent Resolution 15 (SCR 15)
7 authored by Senator John Swan; and

8 WHEREAS, SCR 15 authorized the State Personnel Board to
9 “take every proper means to prevent anyone securing a position
10 on the eligible list of the state civil service or from being certified
11 to a civil service position in the state service who is not loyal to
12 the United States and to further make such rules as may be
13 necessary to provide for the dismissal from the service of such
14 persons as may be proved to be disloyal to the United States of
15 America in this present war”; and

16 WHEREAS, On January 27, 1942, a State Personnel Board staff
17 analysis opined that the board could do little in response to SCR
18 15, and that no blanket discharge of employees on the ground of
19 dual citizenship, or nationality of parents was possible. The board
20 was aware it would not be justified in ordering dismissal of an
21 individual without “evidence of acts, statements, or courses of
22 conduct tending to show disloyalty”; and

23 WHEREAS, On January 30, 1942, the State Personnel Board
24 commenced an investigation into the loyalty of persons applying
25 to take an exam, on eligibility lists for state jobs, and employed
26 by the State of California; and

27 WHEREAS, Japanese Americans were the focus of
28 investigations by the State Personnel Board, and the board prepared
29 lists of identified employees that contained only Japanese
30 surnames; and

31 WHEREAS, No other group of employees was investigated;
32 and

33 WHEREAS, On February 5, 1942, Mike Masaoka, National
34 Secretary for the Japanese American Citizens League, appeared
35 before the State Personnel Board and was assured that there would
36 be no summary or arbitrary dismissals; and

37 WHEREAS, Earl Warren, Attorney General for the State of
38 California, wrote on February 7, 1942, “It is my conclusion that

1 said order [SCR 15], discriminating as it does against naturalized
2 citizens and against American born citizens of the first generation,
3 violates the civil liberties of citizens as guaranteed by the
4 Constitution of the United States and of this State and is in conflict
5 with our Civil Service Act”; and

6 WHEREAS, On February 27, 1942, the California Board of
7 Equalization dismissed all employees of Japanese ancestry; and

8 WHEREAS, Over the following weeks, every employee of
9 Japanese ancestry was terminated from state employment; and

10 WHEREAS, The State Personnel Board adopted a resolution
11 that read:

12
13 “Whereas, a state of war does exist between the United States
14 of America and the Axis Powers, Germany, Italy, Japan, and
15 others; and

16 Whereas, certain employees of the State Personnel Board
17 are of Japanese ancestry and the morale among other
18 employees of said Board has been adversely affected by their
19 being required to be associated in their work with these
20 employees of Japanese ancestry, and

21 Whereas, there is a general lack of confidence on the part
22 of the public and State employees in the loyalty of many of
23 said employees of Japanese ancestry, and

24 Whereas, this Board is convinced that the welfare of the
25 United States of America, and a successful conclusion of the
26 war can best be achieved by safeguarding the public and its
27 property from any possible espionage or fifth column activities
28 such as were employed in the attack on Pearl Harbor, and
29 participation in such activities can be prevented by separating
30 those persons of Japanese ancestry now employed by this
31 Board by separating them from State service,

32 Now, therefore be it resolved, that the following named
33 employees ... are hereby immediately suspended, and

34 Be it further resolved that the Secretary be and he is hereby
35 ordered to prepare charges against said persons pursuant to
36 the law.”

37
38 WHEREAS, Over 314 employees with Japanese surnames were
39 terminated; and

1 WHEREAS, Seasonal and probationary employees did not have
2 a right of appeal, and only permanent employees could file an
3 appeal of the dismissal; and

4 WHEREAS, Sixty-three employees were able to file an appeal,
5 and these employees retained James C. Purcell and William E.
6 Ferriter to represent their case against the State Personnel Board;
7 and

8 WHEREAS, All employees were dismissed on the same charges
9 without regard to individual job performance, and as a result, many
10 charges were not applicable to individuals employees; and

11 WHEREAS, Charges A to G, inclusive, against employees
12 included allegations that employees were citizens of the Empire
13 of Japan and subjects of the Emperor of Japan, employees could
14 read and write Japanese and subscribed to Japanese newspapers,
15 employees attended Japanese schools that taught the Japanese
16 language, employees were members of Japanese organizations,
17 employees reduced the morale and efficiency of public service
18 employees, employees has failed to report that they had attended
19 Japanese schools, and military zones restricted the movement of
20 employees and prohibited employees from properly performing
21 their duties as state employees; and

22 WHEREAS, On May 27, 1942, the State Personnel Board filed
23 Supplemental Charges H and I that stated that employees were
24 confined by the federal government and could not carry out their
25 duties, and alleged that the employees were dual citizens of Japan;
26 and

27 WHEREAS, In response to the supplemental charges, James C.
28 Purcell filed a case on behalf of Mitsuye Endo, a California state
29 employee, before the Circuit Court of Appeals, petitioning for her
30 release from federal confinement; and

31 WHEREAS, In response to the possibility that the constitutional
32 rights of employees could be raised, the Secretary to the State
33 Personnel Board suggested that the board exercise its “police
34 power” to protect the public order, safety, health, morals and
35 welfare from Japanese persons; and

36 WHEREAS, On December 18, 1944, the United States Supreme
37 Court decided in favor of Mitsuye Endo, and state employees
38 continued their appeal to regain their jobs; and

1 WHEREAS, On September 4, 1946, a hearing was held before
2 the referee of the State Personnel Board regarding the charges;
3 and

4 WHEREAS, The Attorney General's office indicated at the
5 hearing that the employees had been the most thoroughly
6 investigated people in the history of this country, and that nothing
7 had been disclosed to substantiate the charges in any way; and

8 WHEREAS, The state could not produce any proof, and the
9 case was submitted as to the charges without any evidence; and

10 WHEREAS, On September 28, 1946, employees were sent
11 telegrams indicating that they had only 10 days to report to work
12 and be reinstated to their jobs; and

13 WHEREAS, It was not possible for employees, who were
14 scattered across the country as a result of their federal confinement,
15 to return within the 10-day window, and only a handful of
16 employees were re-employed; and

17 WHEREAS, In August 1947, the State Personnel Board provided
18 backpay only for the period between the date of suspension and
19 the date of the employees confinement by the federal government;
20 and

21 WHEREAS, Employees were not compensated by the state or
22 federal government for their wage losses suffered over the four
23 and one-half years that they were denied their jobs; and

24 WHEREAS, Assembly Bill 2710 authored by Assembly Member
25 Patrick Johnson was signed into law on August 17, 1982, by
26 Governor Jerry Brown; and

27 WHEREAS, Assembly Bill 2710 provided \$5,000 as symbolic
28 compensation for the unfair dismissal of Japanese American
29 employees during World War II; and

30 WHEREAS, Assembly Bill 2710 did not provide an apology
31 for the unjust actions of the State of California, the California State
32 Legislature, or the California State Personnel Board; now,
33 therefore, be it

34 *Resolved by the Assembly of the State of California, the Senate*
35 *thereof concurring*, That the State of California made a grievous
36 mistake that injured loyal employees who were dedicated to serving
37 the people of California; and be it further

38 *Resolved*, That the Legislature issue a public apology to the state
39 civil service employees who were dismissed as a result of SCR
40 15; and be it further

- 1 *Resolved*, That the Chief Clerk of the Assembly transmit copies
- 2 of this resolution to the author for appropriate distribution.

O